

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TAM TRAN,

Plaintiff,

v.

WASHINGTON STATE PATROL,

Defendant.

CASE NO. 3:22-cv-05828-BHS

ORDER

THIS MATTER is before the Court on Magistrate Judge David W. Christel's thorough Report and Recommendation, Dkt. 6, recommending that this Court deny pro se plaintiff Tam Tran's Motion for Leave to Proceed *in forma pauperis*, Dkt. 1, and dismiss this action without prejudice for failure to state a claim. Tran has not objected or otherwise responded.

Tran's initial proposed complaint, Dkt. 1-1, failed to allege any facts in support of a plausible claim, and Judge Christel ordered Tran to file an amended complaint or the matter would be dismissed. Tran did so, Dkt. 4, but his proposed amended complaint suffers from the same fatal flaws as his first attempt: the Washington State Patrol is not a viable defendant for Tran's 42 U.S.C. § 1983 claim, as it is not a person. Tran has not

1 identified any person who personally participated in any constitutional deprivation, and
2 his claims appear to be barred by *Heck v. Humphrey*, 512 U.S 477 (1994). *See* Dkt. 6.

3 A district judge must determine de novo any part of a magistrate judge's proposed
4 disposition to which a party has properly objected. The district judge may accept, reject,
5 or modify the recommended disposition; receive further evidence; or return the matter to
6 the magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3). A proper objection
7 requires specific written objections to the findings and recommendations in the R&R.
8 *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). Objections
9 to an R&R are not a vehicle to relitigate the same arguments carefully considered and
10 rejected by the magistrate judge. *See, e.g., Fix v. Hartford Life & Accident Ins. Co.*, CV
11 16-41-M-DLC-JCL, 2017 WL 2721168, at *1 (D. Mont. June 23, 2017) (collecting
12 cases).

13 The R&R is ADOPTED, Tran's application to proceed *in forma pauperis* is
14 DENIED, and this matter is DISMISSED without prejudice

15 The Clerk shall enter a JUDGMENT and close the case.

16 IT IS SO ORDERED.

17 Dated this 6th day of January, 2023.

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20 BENJAMIN H. SETTLE
21 United States District Judge
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